

Town of Weare

ZONING BOARD OF ADJUSTMENT

15 Flanders Memorial Road

PO Box 190

Weare, NH 03281

Phone: 603.529.2250

Fax: 603.529.7527

MEETING MINUTES

Tuesday, March 6, 2012

****FINAL****

PRESENT: Jack Dearborn, Chairman; Forrest Esenwine, Member; Malcolm Wright, Member; June Purington, Member; Stu Richmond, Alternate; Chip Meany, Code Enforcement Officer; Sheila Savaria, Recording Secretary.

GUESTS: Ginger Esenwine, Tracey Laura, James F. Laura, Craig Francisco, Vaughn Tamzarian, Steve Fuller, Michael Pelletier, Art Siciliano, Brett Meyers

I. INTRODUCTION:

Chairman Jack Dearborn called this meeting to order at 7:30 PM, explained how the Board does business, and asked the members of the Board to introduce themselves.

II. PUBLIC HEARINGS:

Case #0511 Continuation USA/Laura
Variance – Article 14.1 Lot size reduction
506 Mount Dearborn Road
Tax Map 407-92

Stu Richmond moved to accept case #0511 ; June Purington seconded, all voted in favor.

Land Surveyor, Craig Francisco gave the Board a colored map, stamped and signed, and dated 9/12/11. The purpose of this variance is to give the Laura's a clean title to the driveway and house and 200 feet of frontage. If it is not approved, the house, leach field, and driveway will encroach on the USA property. The USA property is already non-conforming at 8.1 acres and 10 acres are required. The boundary agreement will further reduce its size to 6.2 acres.

The attorney for the Laura's, Vaughn Tamzarian, read the 5 points for a variance on the application.

1. This will not be contrary to public interest because it is a preexisting, non-conforming use. They are attempting to clean up boundary line encroachments. Also, there is a court order that a boundary line agreement be undertaken between USA and the Laura's.
2. The variance will not be contrary to the spirit of the ordinance because density is not increased, and the density appears to underlie the spirit and intent of the minimum lot size requirement of Article 14, Section 1.
3. By granting of the variance, substantial justice will be done because the property would be in compliance with the court order and all the encroachments on abutting Lot 91 would be eliminated.
4. By granting this variance, the values of surrounding properties will not be diminished because it only allows for the elimination of existing encroachments by one abutter. The existing rural character of the general neighborhood would be maintained.
5. There is an unnecessary hardship because even though both properties border Hodgdon Road, given the wetlands issues, it does not make sense to propose a driveway to go through existing Hodgdon side of the property. They have found the solution to justify the conformity vs. non-conformity issues for the zoning regulations in the Town of Weare.

Malcolm Wright said that he was concerned about the driveway placement because they only have a lot

plan for 1 lot. Jack Dearborn closed the public hearing at 8:25 pm

June Purington moved to accept point 1; Malcolm Wright seconded, all voted in favor.
June Purington moved to accept point 2; Stu Richmond seconded, all voted in favor.
June Purington moved to accept point 3; Stu Richmond seconded, all voted in favor.
June Purington moved to accept point 4; Malcolm Wright seconded, all voted in favor.
June Purington moved to accept point 5; Malcolm Wright seconded, all voted in favor.

The Variance from Article 14.1, Lot size reduction was granted.

Case #0112 United States of America
 Variance – Article 28 Section 28.9
 Encroachment into the wetlands buffer at 506 Mt. Dearborn Road
 Tax Map 407-92

Forrest Esenwine moved to accept Case #0112; June Purington seconded, all voted in favor.

Attorney Vaughn Tamzarian explained that they want to construct a driveway on lot 92, but it encroaches slightly on a wetland buffer. Craig Francisco showed the Board where the 14' driveway would be and that it would encroach no more than 10' to the wetland. They feel the impact of the encroachment is less onerous than the request for relief for the 200' frontage on Mt. Dearborn Road.

Attorney Tamzarian read the 5 points on his application to the Board:

1. The Variance will not be contrary to public interest because the effort of the US is to make this property and abutting property in accordance with the Weare Zoning Ordinance.
2. The Variance is not contrary to the spirit of the ordinance because the applicant has made every attempt to minimize encroachment on the buffer while dealing with the zoning ordinances.
3. Substantial justice will be done because these 2 lots will be stand-alone lots and the driveway is a piece allowing that to happen.
4. Surrounding properties values will not be diminished because the creation of the driveway on lot 92, even with a slight encroachment, will increase the value of surrounding properties.
5. Once the determination was made that complying with the 200' frontage minimum was more important than the light encroachment, the application was done the best they could to keep encroachment to a minimum,

Jack Dearborn closed the public hearing at 8:45 pm.

June Purington moved to accept point 1 under the condition that it is not closer than 10 feet to the wetland; Stu Richmond seconded; all voted in favor.

June Purington moved to accept point 2; Malcolm Wright seconded. Forrest Esenwine said the spirit of the ordinance is a key phrase and the ordinance is written in the best interest of the town and its residents. The spirit is to maintain what the best use of the land is and he feels this certainly applies to that. All voted in favor.

June Purington moved to accept point 3; Malcolm Wright seconded, all voted in favor.

June Purington moved to accept point 4; Stu Richmond seconded, all voted in favor.

June Purington moved to accept point 5; Malcolm Wright seconded, all voted in favor.

The Variance from Article 28 Section 28.9 was granted.

Case #0212 Collins Landing Condominiums
 Variance – Article 28.9 Non-disturbed wetland buffer
 Tax Map 401-4 in 'R' District

The applicant wants to improve the beach at the Collins Landing Condominiums. It is an amenity to the residents and is eroding and in danger of disappearing. They are aware they need approval from the NHDES Wetlands Bureau to continue.

June Purington moved to accept the application; Malcolm Wright seconded, all voted in favor.

The applicant read the 5 points on the application for this variance.

1. The granting of this variance will not be contrary to public interest because it will allow improvement to the beach.
2. The variance will not be contrary to the spirit of the ordinance because the proposed use will have a positive effect on the area. There will be less silt on the lake. The work proposed and the ordinance shares a common goal.
3. By granting this variance, substantial justice will be done because there are currently 80 families using this beach and the proposed work will allow the residents to continue to use the beach far into the future. They are working with DES, and they have come up with the most environmentally friendly approach to repair the beach.
4. Surrounding properties values will not be diminished because if erosion is allowed to continue, the beach area will disappear into the lake causing a negative effect on property values. By doing the work, there would be a positive effect on property values.
5. Collins Landing is a 92-unit condominium with 80 units currently occupied. The beach area is used by the occupants, which is their only amenity. The building is on a private road and there are only non-motorized boats allowed. A variance from the ZBA is the only means of moving forward with repairing the beach, and the applicant understands they need approval from the NHDES wetlands bureau.

Jack Dearborn closed the hearing at 7:50 pm.

June Purington moved to accept point 1; Forrest Esenwine seconded. Stu Richmond suggested that approval of all the points should be subject to DES approval and in accordance with the package submitted. Ms. Purington amended her motion to reflect that change. All voted in favor.

June Purington moved to accept point 2, subject to DES approval and in accordance with the package submitted; Stu Richmond seconded the motion. Forrest Esenwine commented that the spirit of this ordinance is to preserve the wetland and that is what this project is intending to do. All voted in favor.

June Purington moved to accept point 3, subject to DES approval and in accordance with the package submitted; Malcolm Wright seconded, all voted in favor.

June Purington moved to accept point 4, subject to DES approval and in accordance with the package submitted; Stu Richmond seconded. Mr. Esenwine commented that this would help the town by preserving the wetlands. All voted in favor.

June Purington moved to accept point 5, subject to DES approval and in accordance with the package submitted; Stu Richmond seconded, all voted in favor.

The Variance from Article 28.9 Non-disturbed wetland buffer was granted.

III. OTHER BUSINESS:

Minutes: Forrest Esenwine moved to approve the third draft of the 12/6/11 minutes; Stu Richmond seconded, all voted in favor.

Forrest Esenwine moved to approve the first draft of the 2/7/12 minutes as distributed; Stu Richmond seconded, all voted in favor.

IV. ADJOURNMENT: As there was no other business to come before the board, June Purington moved to adjourn at 8:45 pm; Malcolm Wright seconded, all voted in favor.

Respectfully Submitted,

Sheila Savaria
Recording Secretary